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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/528,402	<b>Applicant(s)</b> LIALIAMOU ET AL.	
	<b>Examiner</b> KENAN CEHIC	<b>Art Unit</b> 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>03/18/2005</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 01/16/2008 have been fully considered but they are not persuasive.

As regarding arguments against the rejections of claim 1 and similarly claims 9, 11, and 19:

On page 15, Applicant describes the content of Schweitzer and Jogalekar and alleges generally and without particular specificity that the combination of Schweitzer and Jogalekar fails to disclose at least, "charging of data reaching a network element of a communication network during a data session, the data session comprising a plurality of data flows, with each data flow being distinguishable by a set of flow parameters," as recited in claim 1. The applicant does not point out or discuss what exact elements the *combination* of Schweitzer and Jogalekar are not disclosed. The rejection under 35 U.S.C. 103(a) over Schweitzer in view of Jogalekar clearly disclosed which limitations Schweitzer disclose and which it does not. Jogolekar was brought in to remedy the deficiency.

Furthermore, on page 16, applicant argues that Schweitzer does not disclose : "charging of data reaching a network element of a communication network during a data session, the data session comprising a plurality of data flows, with each data flow being distinguishable by a set of flow parameters". The office action did not allege that Schweitzer discloses all of the above limitations. It was clearly asserted on page 9 of the Office Action that Schweitzer is silent about some of the limitations that applicant cited.

Similarly, on page 17 of the Remarks, the applicant argues that Jogalekar does not disclose: " charging of data reaching a network element of a communication network during a data session, the data session comprising a plurality of data flows, with each data flow being distinguishable by a set of flow parameters" . The office action did not allege that Schweitzer discloses all of the above limitations. It was clearly asserted on page 9 of the Office Action which limitations Jogalekar discloses.

Additionally, with regards to arguments on pages 15 through page 17 1st paragraph, the applicant merely briefly states that the combination of Schweitzer and Jogalekar does not disclose all the limitations of claim 1, while only arguing the individual references.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413,208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

As regarding arguments on pages 17 and 18 regarding that a combination of Schweitzer and Jogalekar is improper:

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958

F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both references deal with policy based billing of traffic. Thus a person of ordinary skill in the art would could have combined/added features of Schweitzer and Jogalekar, and also have a motivation to do so. The motivation to combine was referenced to provide the controller 204 (see Figure 5) and its functionality (functionality such statistical information collection etc. and Figure 5 “Policy Engine”, “Billing Engine”), which performs the functions of the invention as disclosed by Jogalekar. The invention of Jogalekar has advantages of billing customers according a policy (see col 1 of Jogalekar), such as charging a premium rate for premium network, which the prior art did not teach.

### ***Claim Objections***

2. Claim 11-18 are objected to because of the following informalities:

Claim 11, contains to periods. A claim can only contain one period.

Dependent claims are objected since they depend on an objected claim. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claim 1, 2, 6-8, 11,12,16-18, 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schweitzer et al. (US 2002/0013849 A1) in view of Jogalekar (US 7,002,977), hereinafter Schweitzer and Jogalekar.

For claim 1, Schweitzer discloses A method comprising charging (see section 0043 lines 5-6 “policy..billed for usage” and section 0063 lines 1-5 “billing on a per session basis... IP telephony, that might be charge per minute per leg. For HTTP that might be a charge per megabyte) of a communication network (see section 0039 “network”) during a data session (see section 0033 lines 1-9 “session refers to a group of related flows”),

the data session (see section 0033 lines 1-9 “session refers to a group of related flows”) comprising a plurality of data flows (see section 0033 lines 1-9 “session refers to a group of related flows”),

with each flow (see section 0031 lines 1-6 “flows”) being distinguishable (see section 0024 lines 1-8 “flow detection” by a set of flow parameters (see section 0024 lines 1-8 “MAC addresses , IP addresses, and TCP/UDP ports”), the charging comprising the steps of:

enforcing a charging policy (see section 0043 lines 5-6 “policy..billed for usage” and section 0063 lines 1-5 “billing on a per session basis... IP telephony, that might be charge per minute per leg. For HTTP that might be a charge per megabyte) to be applied to said data (see section 0041 lines 4-7 “receiving packets from the packet sources” and Fig 1 100a-e), wherein said charging policy (see section 0043 lines 5-6 “policy..billed for usage” section 0063 lines 1-5 “billing on a per session basis... IP telephony, that might be charge per minute per leg. For HTTP that might be a charge per megabyte”) defines charging rules per flow (see section 0063 lines 1-5 “billing on a per session basis... IP telephony, that might be charge per minute per leg. For HTTP that might be a charge per megabyte and section 0033 lines 1-2 “session refers to a group of related flows”; see section 0071 lines 3-5 “voice over IP...usage charge might be waived” and claim 18 “charging”);

observing (see section 0040 lines 1-6 “filter...remove local traffic from further analysis “ and 8-10 “voice over IP calls might be filtered out”) said data reaching (see section 0041

lines 4-7 “receiving packets from the packet sources” and Fig 1 100a-e) a destination (see Figure 1 “Filter”) and

detecting (see section 0058 lines 1-7 “new flows....will be recognized”) at least one flow of data (see section 0058 lines 1-10 “new flows....will be recognized....NetMetting<sup>TM</sup> specific streamers” and section 0077 lines 6-12 “detect the FTP session....detect transfer flow”); and

matching said detected flow (see section 0055 lines 1-5 “recognized flow...ongoing packets in a voice over IP call”) of data (see section 0055 lines 1-5 “recognized flow...ongoing packets in a voice over IP call”) to an enforced charging policy (see section 0043 lines 5-6 “policy..billed for usage” and section 0063 lines 1-5 “billing on a per session basis... IP telephony, that might be charge per minute per leg) ,applying said enforced charging policy (see section 0043 lines 5-6 “policy..billed for usage” and section 0063 lines 1-5 “billing on a per session basis... IP telephony, that might be charge per minute per leg)to said data flow (see section 0055 lines 1-5 “recognized flow...ongoing packets in a voice over IP call”),thereby generating charging information (see section 0067 lines 4-9 “service details records....billing purposes...paid for usage is exceeded”).

As regarding claim 2, Schweitzer discloses said generated charging information (see section 0067 lines 4-9 “service details records....billing purposes...paid for usage is exceeded” and section 0063 lines 1-15 “billing...service detail record”)

As regarding claim 7 and 17, said data flows (see section 0033 lines 7-9 “control flows...flows containing voice and/or video”) are Internet Protocol (see section 0033



lines 7-9 “IP”) based packet (see section 0023 lines 1-3 “packet”) data flows (see section 0033 lines 7-9 “control flows...flows containing voice and/or video”), and said flow parameters (see section 0024 1-3 “header”) comprise at least one of an IP (see section 0033 lines 7-9 “IP”) header field (see section 0022 lines 6-9 “header”), a transport header field (see section 0022 lines 6-7 “header layer specific header”), and an application level information (see section 0027 lines 7-10 “application layer...FTP...HTTP”).

As regarding claim 11, a device compromising: enforcing unit (see section 0102 “hardware...combination of hardware and software”) configured to enforce a charging policy (see section 0043 lines 5-6 “policy..billed for usage” and section 0063 lines 1-5 “billing on a per session basis... IP telephony, that might be charge per minute per leg. For HTTP that might be a charge per megabyte) to be applied to said data (see section 0041 lines 4-7 “receiving packets from the packet sources” and Fig 1 100a-e), wherein said charging policy (see section 0043 lines 5-6 “policy..billed for usage” section 0063 lines 1-5 “billing on a per session basis... IP telephony, that might be charge per minute per leg. For HTTP that might be a charge per megabyte”) defines charging rules per flow (see section 0063 lines 1-5 “billing on a per session basis... IP telephony, that might be charge per minute per leg. For HTTP that might be a charge per megabyte and section 0033 lines 1-2 “session refers to a group of related flows”; see section 0071 lines 3-5 “voice over IP...usage charge might be waived” and claim 18 “charging”); observation unit configured to observe (see section 0040 lines 1-6 “filter...remove local traffic from further analysis “ and 8-10 “voice over IP calls might be filtered out”) said

data reaching (see section 0041 lines 4-7 “receiving packets from the packet sources” and Fig 1 100a-e) a destination (see Figure 1 “Filter”) and detecting see section 0058 lines 1-7 “new flows....will be recognized”) at least one flow of data (see section 0058 lines 1-10 “new flows....will be recognized....NetMetting™ specific streamers” and section 0077 lines 6-12 “detect the FTP session....detect transfer flow”); and matching unit (see section 0102 “hardware...combination of hardware and software”) configured to match said detected flow (see section 0055 lines 1-5 “recognized flow...ongoing packets in a voice over IP call”) of data (see section 0055 lines 1-5 “recognized flow...ongoing packets in a voice over IP call”) to an enforced charging policy (see section 0043 lines 5-6 “policy..billed for usage” and section 0063 lines 1-5 “billing on a per session basis... IP telephony, that might be charge per minute per leg), application unit (see section 0102 “hardware...combination of hardware and software”) configured to apply said matching charging policy (see section 0043 lines 5-6 “policy..billed for usage” and section 0063 lines 1-5 “billing on a per session basis... IP telephony, that might be charge per minute per leg) to said flow (see section 0055 lines 1-5 “recognized flow...ongoing packets in a voice over IP call”), and generation unit (see section 0102 “hardware...combination of hardware and software”), responsive to said application unit (see section 0102 “hardware...combination of hardware and software”), configured to generate charging information (see section 0067 lines 4-9 “service details records....billing purposes...paid for usage is exceeded”) wherein the device (see section 0102 “hardware...combination of hardware and software”) is configured to charge (see section 0043 lines 5-6

“policy..billed for usage” and section 0063 lines 1-5 “billing on a per session basis... IP telephony, that might be charge per minute per leg. For HTTP that might be a charge per megabyte) data reaching (see section 0041 lines 4-7 “receiving packets from the packet sources” and Fig 1 100a-e) the network element (see fig 1; 102 and section 0102 “hardware...combination of hardware and software”) of a communication network (see section 0039 “network”) during a data session (see section 0033 lines 1-9 “session refers to a group of related flows”), the data session (see section 0033 lines 1-9 “session refers to a group of related flows”) comprising a plurality of data flows (see section 0033 lines 1-9 “session refers to a group of related flows”), with each flow (see section 0031 lines 1-6 “flows”) being distinguishable (see section 0024 lines 1-8 “flow detection”) by a set of flow parameters (see section 0024 lines 1-8 “MAC addresses , IP addresses, and TCP/UDP ports”).

For claim 21, Schweitzer discloses A device comprising:

enforcing means see section 0102 “hardware...combination of hardware and software”) configured to enforce a charging policy (see section 0043 lines 5-6 “policy..billed for usage” and section 0063 lines 1-5 “billing on a per session basis... IP telephony, that might be charge per minute per leg. For HTTP that might be a charge per megabyte) to be applied to data (see section 0041 lines 4-7 “receiving packets from the packet sources” and Fig 1 100a-e), wherein said charging policy (see section 0043 lines 5-6 “policy..billed for usage” section 0063 lines 1-5 “billing on a per session basis... IP telephony, that might be charge per minute per leg. For HTTP that might be a charge per

megabyte”) defines charging rules per flow (see section 0063 lines 1-5 “billing on a per session basis... IP telephony, that might be charge per minute per leg. For HTTP that might be a charge per megabyte and section 0033 lines 1-2 “session refers to a group of related flows”; see section 0071 lines 3-5 “voice over IP...usage charge might be waived” and claim 18 “charging”);

observation means (see section 0102 “hardware...combination of hardware and software”) configured to observe (see section 0040 lines 1-6 “filter...remove local traffic from further analysis “ and 8-10 “voice over IP calls might be filtered out”) said data reaching (see section 0041 lines 4-7 “receiving packets from the packet sources” and Fig 1 100a-e) a destination (see Figure 1 “Filter”) and detecting see section 0058 lines 1-7 “new flows....will be recognized”) at least one

flow of data (see section 0058 lines 1-10 “new flows....will be recognized....NetMetting<sup>TM</sup> specific streamers” and section 0077 lines 6-12 “detect the FTP session....detect transfer flow”);

matching means (see section 0102 “hardware...combination of hardware and software”) configured to match said detected flow (see section 0055 lines 1-5 “recognized flow...ongoing packets in a voice over IP call”) of data (see section 0055 lines 1-5 “recognized flow...ongoing packets in a voice over IP call”) to an enforced charging policy (see section 0043 lines 5-6 “policy..billed for usage” and section 0063 lines 1-5 “billing on a per session basis... IP telephony, that might be charge per minute per leg);

application means (see section 0102 “hardware...combination of hardware and software”) configured to apply said matching

charging policy (see section 0043 lines 5-6 “policy..billed for usage” and section 0063 lines 1-5 “billing on a per session basis... IP telephony, that might be charge per minute per leg) to said flow (see section 0055 lines 1-5 “recognized flow...ongoing packets in a voice over IP call”); and generation means (see section 0102 “hardware...combination of hardware and software”), responsive to said application unit (see section 0102 “hardware...combination of hardware and software”), configured to generate charging information (see section 0067 lines 4-9 “service details records....billing purposes...paid for usage is exceeded”).

Schweitzer is silent about :

As regarding claim 1, 11, 21 enforcing a charging policy at the network element and a charging policy at the network element ; observing said data reaching said network element.

As regarding claim 2 and 12, discloses forwarding generated charging information to a charging system of the communication network.

As regarding claim 6 , upon enforcing said charging policy, data volume counters are initialized.

Jogalekar teaches a network element with the following features:

As regarding claim 1 and 11, Jogalekar discloses enforcing (see column 6 lines 1-2 “line card” and see column 6 42-47 “policy data...line card” and Figure 3 202,324, and Figure 7 704-710) a charging policy (see column 1 lines 61-67 “charging a premium rate” and column 11 lines 1-6 “policy matches...for received packets” Figure 6, 616) at the network element (see column 6 lines 1-2 “line card” and see column 6 42-47 “policy

data...line card” and Figure 3 202,324, and Figure 7 704-710) and a charging policy (see column 1 lines 61-67 “charging a premium rate” and column 11 lines 1-6 “policy matches...for received packets” and Figure 6, 616) at the network element (see column 6 lines 1-2 “line card” and see column 6 42-47 “policy data...line card” and Figure 3 202,324); observing (see column 6 lines 32-42 “mapping data packets that enter the line card....classification data”) said data reaching (see column 4 lines 24-31 “exchange data packets” and column 6 lines 32-42 “data packets that enter the line card”) said network element (see column 6 lines 1-2 “line card”).

As regarding claim 2 and 12, Jogalekar discloses forwarding (see column 8 lines 38-48 “billing engine..transmit...to the network manager”) generated charging information (see column 8 lines 18-25 “billing engine may compile ...billing and accounting information”) to a charging system (see column 8 lines 38-48 “network manager” and column 4 lines 47-49 “network manager...receives...information...for accounting and billing purposes”) of the communication network (see column 4 lines 1-7 “network”).

As regarding claim 6, Jogalekar discloses initializing (see column 12 lines 61-61 “creates service-specific counters such as either incrementing...or decrementing...”) data volume counters (see column 11 lines 41-50 “service-specific counters...counters...counts the packets”) upon enforcing said charging policy (see column 1 lines 61-67 “charging a premium rate” and column 11 lines 11-13 “policy engine...checks...policy table” and Figure 6 608,614, 616).

As regarding claim 8 and 18, Jogalekar discloses each (see Figure 6 620-634) comprising at least one flow parameter (see Figure 6, 604 and column 8 lines 62-67 “packet header

information”), and at least one (see Figure 6, 616) of a charging/accounting type (see Figure 6, 616, “Billing Mechansim”) , an accounting event trigger (see Figure 6, 610, and column 9 lines 17-19 “period of time...a particular policy rule is applicable”), a charging metrics (see Figure 6, 608 and column 9 lines 9-15 “premium service that is billed...at different,rate”), and a

tariffing indication (see Figure 6, 608 and column 9 lines 9-15 “premium service that is billed...at different,rate”),

As regarding claim 16, Jogalekar discloses initialization means (see section 0102 “hardware...combination of hardware and software”) adapted to initialize (see column 12 lines 61-61 “creates service-specific counters such as either incrementing...or decrementing...”) data volume

Counters (see column 11 lines 41-50 “service-specific counters...counters...counts the packets”) responsive to enforcing said

charging policy (see column 1 lines 61-67 “charging a premium rate” and column 11 lines 11-13 “policy engine...checks...policy table” and Figure 6 608,614, 616).

It would have been obvious to one of the ordinary skill in the art at the time of the invention to modify the system of Schweitzer by using the features, as taught by Jogalekar in order to provide ... (see column 5 lines 58-64).

5. Claim 3 and 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schweitzer et al. (US 2002/0013849 A1) in view of Jogalekar (US 7,002,977) as applied to claim 1 above, and further in view of Gai et al. (US 7,185,073).

For claim 3 and 13 Schweitzer and Jogalekar teach the claimed invention as described in paragraph 4.

Schweitzer and Jogalekar are silent about:

As regarding claim 3, enforcing is performed upon start-up of the network element.

As regarding claim 13, said enforcing means are responsive to activation of the data session to perform the enforcing.

Gai et al. from the same or similar field of endeavor discloses enforcing a policy the following features:

As regarding claim 3, Gai et al discloses enforcing is performed (see column 6 lines 21-26 “rules that are utilized by the intermediated devices”) upon start-up (see column 6 lines 21-26 “Upon initialization”) of the network element (see column 6 lines 21-26 “intermediated devices”)

As regarding claim 13, Gai et al discloses said enforcing means (see column 6 lines 21-26 “rules that are utilized by the intermediated devices”) are responsive to start-up (see column 6 lines 21-26 “Upon initialization”) of the network element (see column 6 lines 21-26 “intermediated devices”) to perform the enforcing (see column 6 lines 21-26 “rules that are utilized by the intermediated devices”).

It would have been obvious to one of the ordinary skill in the art at the time of the invention to modify the system of Schweitzer in view of Jogalekar by using the features, as taught by Gai et al., in order to provide ... (see column 5 lines 58-64).



6. Claims 4,5, 14, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schweitzer et al. (US 2002/0013849 A1) in view of Jogalekar (US 7,002,977) as applied to claim 1 above, and further in view of Amin et al. (US 2002/0152319).

For claim 4, 5, 14, and 15 Schweitzer and Jogalekar teach the claimed invention as in paragraph 4.

As regarding claim 5, Schweitzer discloses enforcing (see section 0035 lines 4-15 “voice over IP call...single session...checked...does not exceed..”) is performed dynamically (see section 0035 lines 4-15 “...single session...checked every minute...does not exceed..”) during the lifetime (see section 0033 lines 1-4 “session..definite time bound”) of the data session (see section 0035 lines 4-15 “voice over IP call...single session”).

As regarding claim 15, Schweitzer discloses said enforcing means (see section 0102 “hardware...combination of hardware and software”)are dynamically performing (see section 0035 lines 4-15 “...single session...checked every minute...does not exceed..”) the enforcing (see section 0035 lines 4-15 “voice over IP call...single session...checked...does not exceed..”) during the life-time see section 0033 lines 1-4 “session..definite time bound”) of the data session (see section 0035 lines 4-15 “voice over IP call...single session”).

Schweitzer and Jogalekar are silent about:

As regarding claim 4, enforcing is performed upon activation of the data session.

As regarding claim 14, said enforcing means are responsive to activation of the data session to perform the enforcing.

Amin et al from the same or similar field of endeavor discloses an accounting management system with the following features:

As regarding claim 4, Amin discloses enforcing is performed (see section 0212 5-10 “usage measurements of the new service session...sent to Accounting server....Billing server”) upon activation of the data session (see section 0212 lines 1-2 “new service sessions”).

As regarding claim 14, Amin discloses said enforcing means (see section 0200 lines 1-4 “access point”) are responsive to activation of the data session (see section 0212 lines 1-2 “new service sessions”) to perform the enforcing (see section 0212 5-10 “usage measurements of the new service session...sent to Accounting server....Billing server”).

It would have been obvious to one of the ordinary skill in the art at the time of the invention to modify the system of Schweitzer in view of Jogalekar by using the features, as taught by Amin et al., in order to provide ... (see section 0010 lines 1-9).

7. Claims 9, 19, 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jogalekar (US 7,002,977) in view of Schweitzer et al. (US 2002/0013849 A1), hereinafter Schweitzer.

For claim 9, Jogalker discloses a method for supplying (see column 4 lines 38-42 “transmit policy information...to the packet forwarding devices”) a network element (see column 6 lines 1-2 “line card”) with a charging Policy (see column 1 lines 61-67 “charging a premium rate” and column 11 lines 11-13 “policy engine...checks...policy table” and Figure 6 608,614, 616) to be enforced (see column 6 lines 1-2 “line card” and

see column 6 42-47 “policy data...line card”; and column 11 lines 11-13 “policy engine...checks...policy table” and Figure 7 704-710) at said network element (see column 6 lines 1-2 “line card” and see column 6 42-47 “policy data...line card” and Figure 3 202,324, and Figure 7 704-710) for charging (see column 1 lines 61-67 “charging a premium rate” and column 11 lines 11-13 “policy engine...checks...policy table and Figure 6 608,614, 616) of data reaching (see column 11 lines 1-6 “for received packets”) said network element (see column 6 lines 1-2 “line card” and see column 6 42-47 “policy data...line card” and Figure 3 202,324, and Figure 7 704-710) of a communication network (see column 4 lines 1-7 “network”) the method comprising the step of:

creating (see column 8 lines 1-8 “A user...provide or update policy information in the policy engine”) a plurality of charging policies (see Figure 7, 704 and Figure 8, 804,808 and see Figure 6 620-634), each charging policy of the charging policies (see Figure 6 620-634) comprising at least one flow parameter (see Figure 6, 604 and column 8 lines 62-67 “packet header information”), and

at least one (see Figure 6, 616) of a charging/accounting type (see Figure 6, 616, “Billing Mechansim”) , an accounting event trigger (see Figure 6, 610, and column 9 lines 17-19 “period of time...a particular policy rule is applicable”), a charging metrics (see Figure 6, 608 and column 9 lines 9-15 “premium service that is billed...at different,rate”), and a tariffing indication (see Figure 6, 608 and column 9 lines 9-15 “premium service that is billed...at different,rate”), distributing (see column 4 lines 38-42 “transmit policy information...to the packet forwarding devices” and Figure 2, 102, 202; line card is part

of packet forwarding device) a policy (see column 4 lines 38-42 “transmit policy information...to the packet forwarding devices”) to at least one network element(see column 6 lines 1-2 “line card”).

For claim 19, Jogalker discloses a device (see Figure 1, 140) comprising:  
creation unit (see Figure 1, 140) configured to create (see column 8 lines 1-8 “A user...provide or update policy information in the policy engine”) a plurality of charging policies (see Figure 7, 704 and Figure 8, 804,808 and see Figure 6 620-634),  
each charging policy of the charging policies (see Figure 6 620-634) comprising at least one flow parameter (see Figure 6, 604 and column 8 lines 62-67 “packet header information”), and  
at least one (see Figure 6, 616) of a charging/accounting type (see Figure 6, 616, “Billing Mechansim”) , an  
accounting event trigger (see Figure 6, 610, and column 9 lines 17-19 “period of time...a particular policy rule is applicable”), a charging metrics (see Figure 6, 608 and column 9 lines 9-15 “premium service that is billed...at different,rate”), and a  
tariffing indication (see Figure 6, 608 and column 9 lines 9-15 “premium service that is billed...at different,rate”),  
distribution unit (see column 4 lines 38-42 “transmit policy information...to the packet forwarding devices” and Figure 2, 102, 202 and Figure 1, 140; line card is part of packet forwarding device) configured to distribute a policy (see column 4 lines 38-42 “transmit policy information...to the packet forwarding devices”) to at least one network

element(see column 6 lines 1-2 “line card”), wherein the device (see Figure 1, 140) is configured to supply (see column 4 lines 38-42 “transmit policy information...to the packet forwarding devices”) the at least one network element (see column 6 lines 1-2 “line card”) with a charging Policy (see column 1 lines 61-67 “charging a premium rate” and column 11 lines 11-13 “policy engine...checks...policy table” and Figure 6 608,614, 616) to be enforced (see column 6 lines 1-2 “line card” and see column 6 42-47 “policy data...line card”; and column 11 lines 11-13 “policy engine...checks...policy table”and Figure 7 704-710) at said network element (see column 6 lines 1-2 “line card” and see column 6 42-47 “policy data...line card” and Figure 3 202,324, and Figure 7 704-710) for charging (see column 1 lines 61-67 “charging a premium rate” and column 11 lines 11-13 “policy engine...checks...policy table and Figure 6 608,614, 616) of data reaching (see column 11 lines 1-6 “for received packets”) said network element (see column 6 lines 1-2 “line card” and see column 6 42-47 “policy data...line card” and Figure 3 202,324, and Figure 7 704-710) of a communication network (see column 4 lines 1-7 “network”).

For claim 22, Jogalker discloses a device (see Figure 1, 140) comprising: creation means (see Figure 1, 140) configured to create (see column 8 lines 1-8 “A user...provide or update policy information in the policy engine”) a plurality of charging policies (see Figure 7, 704 and Figure 8, 804,808 and see Figure 6 620-634), each comprising (see Figure 6 620-634) at least one flow parameter (see Figure 6, 604 and column 8 lines 62-67 “packet header information”), and at least one (see Figure 6, 616) of a charging/accounting type (see Figure 6, 616, “Billing Mechansim”), an accounting event

trigger(see Figure 6, 610, and column 9 lines 17-19 “period of time...a particular policy rule is applicable”), a charging metrics (see Figure 6, 608 and column 9 lines 9-15 “premium service that is billed...at different,rate”), and a tariffing indication (see Figure 6, 608 and column 9 lines 9-15 “premium service that is billed...at different,rate”); and distribution means configured to distribute (see column 4 lines 38-42 “transmit policy information...to the packet forwarding devices” and Figure 2, 102, 202; line card is part of packet forwarding device) said selected charging policy (see column 4 lines 38-42 “transmit policy information...to the packet forwarding devices”) to at least one network element (see column 6 lines 1-2 “line card”).

Jogalekar is silent about:

As regarding claim 9,19, 22, a method for charging during a data session and selecting a charging policy based on offered ,services and subscriber information.

As regarding claim 19, a device for charging during a data session and selection means adapted to select a charging policy based on offered ,services and subscriber information

Schweitzer from the same or similar field of endeavor discloses a charging method with the following features:

As regarding claim 9,19, 22 Schweitzer discloses a method for charging (see section 0043 lines 5-6 “policy..billed for usage” and section 0063 lines 1-5 “billing on a per session basis... IP telephony, that might be charge per minute per leg. For HTTP that might be a charge per megabyte) during a data session (see section 0033 lines 1-9 “session refers to a group of related flows”),selecting a charging policy (see section 0063 lines 3-7 “voice over IP telephony, that might be....For HTTP, that might be...” based

on offered ,services (see section 0063 lines 3-7 “voice over IP telephony...For HTTP”) and subscriber information (see section 0035 lines 10-15 “prepaid calling” and section 0043 lines 5-6 “policy might control how users..are billed for usage”).

As regarding claim 19, Schweitzer discloses a method for charging (see section 0043 lines 5-6 “policy..billed for usage” and section 0063 lines 1-5 “billing on a per session basis... IP telephony, that might be charge per minute per leg. For HTTP that might be a charge per megabyte) during a data session (see section 0033 lines 1-9 “session refers to a group of related flows”),

selection means (see section 0102 “hardware...combination of hardware and software”) adapted to select a charging policy (see section 0063 lines 3-7 “voice over IP telephony, that might be....For HTTP, that might be...”) based on offered ,services (see section 0063 lines 3-7 “voice over IP telephony...For HTTP”) and subscriber information (see section 0035 lines 10-15 “prepaid calling” and section 0043 lines 5-6 “policy might control how users..are billed for usage”).

It would have been obvious to one of the ordinary skill in the art at the time of the invention to modify the system of Jogalekar by using the features, as taught by Schweitzer, in order to provide ... (see section 0010 lines 7-11).

8. Claim 10, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jogalekar. (US 7,002,977) in view of Schweitzer et al. (US 2002/0013849 A1) as applied to claim 9 above, and further in view of Hurtt et al. (US 2006/0058006).

For claim 10 and 20, Jogalekar and Schweitzer teach the claimed invention as described in paragraph 7.

Jogalekar and Schweitzer are silent about:

a charging policy is selected for a type of a network element.

Hurtta et al from the same or similar field of endeavor discloses a charging method with the following features:

For claim 10 and 20, a charging policy (see section 0035 lines 6-9 “charging policy”) is selected (see section 0035 lines 6-9 “to be applied”) for a type of a network element (see section 0035 lines 6-9 “dependent on...the access point...that is used”).

It would have been obvious to one of the ordinary skill in the art at the time of the invention to modify the system of Jogalekar in view of Schweitzer by using the features, as taught by Hurtta et al, in order to provide ... (see section 0012 and 0016).

### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of



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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US-5,982,754 A	11-1999	Itou et al.	370/253
US-2003/0074312 A1	04-2003	White, Craig R.	705/40
US-6,854,014 B1	02-2005	Amin et al.	709/227
US-6,947,535 B2	09-2005	Ginzboorg et al.	379/201.01
US-7,002,922 B1	02-2006	Shigenari et al.	370/253

The above are recited to show charging methods.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenan Cehic whose telephone number is (571) 270-3120. The examiner can normally be reached on Monday through Friday 8:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kwang Yao can be reached on (571) 272-3182. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kenan Cehic/  
Examiner, Art Unit 2616

/Kwang B. Yao/  
Supervisory Patent Examiner, Art Unit 2616